

ESTTA Tracking number: **ESTTA115178**

Filing date: **12/18/2006**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Exxon Mobil Corporation
Granted to Date of previous extension	12/16/2006
Address	5959 Las Colinas Boulevard Irving, TX 75039 UNITED STATES

Attorney information	Stephen P. Meleen Pirkey Barber LLP 600 Congress Ave., Suite 2120 Austin, TX 78701 UNITED STATES smeleen@pirkeybarber.com, eolson@pirkeybarber.com, melody.l.schottle@exxonmobil.com, trademarks@exxonmobil.com Phone:512.322.5200
----------------------	---

### Applicant Information

Application No	78771526	Publication date	10/17/2006
Opposition Filing Date	12/18/2006	Opposition Period Ends	12/16/2006
Applicant	Peter Cremer North America, L.P. 3117 Southside Avenue Cincinnati, OH 45204 UNITED STATES		

### Goods/Services Affected by Opposition

Class 001. All goods and services in the class are opposed, namely: Chemicals, namely, methyl ester
Class 004. All goods and services in the class are opposed, namely: Bio-diesel fuels

Attachments	noo181.pdf ( 4 pages )(271714 bytes )
-------------	---------------------------------------

Signature	/spm/
Name	Stephen P. Meleen
Date	12/18/2006

1. Opposer is one of the world's largest producers and marketers of petroleum products, including motor fuels, and chemical products. Opposer is also involved in the research and development of alternative fuels.
2. Since at least as early as 1983, Opposer has continuously used the mark EXXSOL in connection with chemicals used in manufacturing a variety of industrial, automotive, and household goods.
3. Opposer's mark EXXSOL is inherently distinctive because it is a coined term and has no meaning in any known language. The mark EXXSOL serves to identify the source of

ExxonMobil's goods to the consuming public, and to distinguish ExxonMobil's goods from those of others.

4. Additionally, as a result of ExxonMobil's extensive use and promotion of its mark EXXSOL, that mark is well known and widely recognized by relevant consumers. Opposer has invested significant effort and resources in advertising and promoting its mark EXXSOL and the goods sold under those marks, with the result that the purchasing public has come to know, rely on, and recognize the goods of Opposer by that mark. Opposer has established valuable goodwill in its mark EXXSOL.

5. In addition to its extensive common law rights, Opposer is the owner of two United States Trademark Registrations for its mark EXXSOL in International Class 1: Reg. No. 1333902 for "chemical solvents for industrial use and for use in manufacturing" and Reg. No. 2290134 for "chemicals for use in the manufacture of polyolefins and halobutyls; chemicals for use as blowing agents in the manufacture of foam; chemical solvents for use in the manufacture of adhesives, automotive fluids, cleaners, degreasers, coatings, paints, cosmetics, printing inks and toiletries." Each of these registrations is valid and subsisting, and has become incontestable under 15 U.S.C. § 1065.

6. Applicant Peter Cremer North America, L.P., a Delaware Limited Partnership, filed Application Serial No. 78771526 (the "Application") on December 12, 2005, for the mark NEXSOL covering "chemicals, namely, methyl ester" in International Class 1 and "bio-diesel fuels" in International Class 4. This Notice of Opposition is timely based on an extension granted to Opposer.

7. Opposer has priority based on its prior use and registration of its mark EXXSOL in the United States. Applicant does not claim a date of first use and cannot obtain a priority date through international treaties that predate Opposer's use and registration of its mark EXXSOL.

8. Applicant's mark NEXSOL is confusingly similar to Opposer's mark EXXSOL and the goods in the Application are similar or related to the goods for which Opposer uses and has registered its mark. For example, methyl esters and Opposer's EXXSOL goods may be used in the manufacture of many of the same types of products.

9. Opposer has not given Applicant permission or approval to use or register the mark NEXSOL.

10. Applicant's mark NEXSOL so resembles Opposer's mark EXXSOL that when Applicant's mark is used on or in connection with the goods identified in the Application, it is likely to cause confusion, or to cause mistake, or to deceive. Registration therefore should be refused under 15 U.S.C. § 1052(d).

11. Registration of Applicant's NEXSOL mark on the Principal Register would be inconsistent with Opposer's rights under the aforementioned registrations and common law and would be damaging to Opposer.

WHEREFORE, Opposer prays that Application Serial No. 78771526 be rejected, and that registration of the mark therein be refused.

This Notice of Opposition is being filed electronically, along with the filing fee required by 37 C.F.R. § 2.6(a)(17). The Commissioner is authorized to draw on the Deposit Account of Pirkey Barber LLP, Account No. 50-3924/EXCO:181/SPM, if there is any problem with the processing of the electronically submitted fee.

Respectfully submitted,

Date: 12/18/2006



---

Louis T. Pirkey  
William G. Barber  
Stephen P. Meleen  
PIRKEY BARBER LLP  
600 Congress Avenue, Suite 2120  
Austin, Texas 78701  
(512) 322-5200

ATTORNEYS FOR OPPOSER